

FAIRFAX COUNTY

Proposed
Statement of Objectives and Use of Funds
For Loan Funds Under Section 108

of the

Housing and Community Development Act of 1974
As Amended

Fairfax County
Department of Housing and Community Development

March, 2010

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Introduction

This is an application for \$6,535,000 in funding under the Section 108 loan guarantee provision of the federal Community Development Block Grant (CDBG) program administered by the U.S. Department of Housing and Urban Development (HUD). It provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. HUD considers this one of the most potent and important public investment tools that it offers to local governments. It allows them to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue larger local projects that can improve entire neighborhoods. Local governments, however, must pledge their current and future CDBG allocations to cover the loan amount as security for the loan. Therefore, the principal security for the loan guarantee is a pledge by Fairfax County (the applicant public entity) to make repayment from its current and future CDBG funds. Additional security requirements are also required by HUD on a case-by-case basis to assure repayment of guaranteed obligations.

Section 108 obligations are financed through underwritten public offerings. Financing between public offerings is provided through an interim lending facility established by HUD. Interest rates on interim borrowing are priced at the three-month London Interbank Offered Rate (LIBOR) plus 20 basis points (0.2%). Permanent financing is pegged to yields on the U.S. Treasury securities of similar maturity to the principal amount. A small additional spread, depending on maturity, will be added to the Treasury market yield to determine the actual interest rate. The three-month LIBOR rate, as of March 24, 2010, plus the 20 basis points totaled 0.48%.

Statement of Community Development Objectives

The proposed use of Section 108 loan funds in this application meets the following Goal under the County's Five-Year Consolidated Plan for FY 2006-2010 and Annual Action Plan for FY 10. These plans are required for funding under HUD community development programs that include the CDBG program.

Community Development Goal

In commercial and residential areas that are vulnerable to instability, facilitate reinvestment, encourage business development, promote public and private investment and reinvestment, preserve affordable housing and prevent or eliminate the negative effects of disinvestment.

Specific Community Development Objectives

1. Develop strategies of prevention and early intervention in communities in danger of deterioration to reduce the need for greater community investment and improvements in the future.

2. Review existing plans for Conservation Areas, Redevelopment Areas, residential Revitalization Areas, Commercial Revitalization Districts, Commercial Revitalization Areas and Neighborhood Strategy Areas to promote a comprehensive and coordinated approach to meeting community development needs while maintaining the affordable housing stock and the unique character of each community.
3. Build on community strengths and involve the residents in decision making on needs, priorities, plans, improvements, and solutions to community concerns; in cooperation with the Strengthening Neighborhoods and Building Community (SNBC) Strategy Team.

Proposed Use of Funds

The County proposes to request \$6,535,000 in Section 108 loan funds to be repaid over a 20 year period from its current and future CDBG entitlement allocations awarded through HUD. The funds requested in this Section 108 loan application will be used for pre-award costs for eligible public improvement activities undertaken in five Conservation Areas as identified in the County's original Section 108 Loan application approved by HUD in October 1996 in the amount of \$9.3 million. The County's has drawn \$2,765,000 upon the loan authority under the original application which has since expired. This current loan application is for \$6,535,000, the undisbursed amount under the original Section 108 loan application. These funds will be used under this new application for pre-award costs to reimburse the County for the eligible and previously approved public improvement project costs not reimbursed under the original application. Eligible project activities undertaken in the five Conservation Areas under the original Section 108 loan application are summarized in the following background section of this application.

Background

In the original Section 108 loan application, the County requested loan proceeds for neighborhood improvements to be implemented in low and moderate income communities. The funds were to be used to continue various ongoing neighborhood improvement projects in five Conservation Areas of the County. The term "Conservation Area" is a designation from the Virginia State Code which is used to identify neighborhoods that have experienced blight and deterioration, and are targeted for preservation and improvement.

Each of the Conservation Areas proposed for assistance through the original Section 108 loan was established through the adoption of a Conservation Plan by the County's Board of Supervisors. The primary goal of the five Conservation Plans was to preserve and improve the residential character of these older neighborhoods by upgrading public facilities and improving the existing housing stock.

The Board of Supervisors adopted Conservation Plans to guide the preservation and public improvements in each of these five Conservation Areas which were included under the original loan application. These neighborhood improvement projects constituted the realization of goals identified in each respective Conservation Area Plan.

Eligible Activity

Under the original application, public improvements in each of the five Conservation Areas were eligible activities for the use of Section 108 loan funds in accordance with Section 570.703 (l) of the CDBG regulations. The costs for these public improvement activities are eligible pre-award costs under this new application. Section 570.703 (l) describes the types of public improvements that are eligible for use of Section 108 Loan funds to include acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements and public utilities.

In addition, Section 570.703 of the CDBG regulations states that guaranteed loan funds may be used for eligible activities provided such activities meet the requirements of Section 570.200 which provides that eligible activities with regard to the use of Section 108 funds under general CDBG policies must meet a CDBG national objective. The CDBG regulations further requires a description of how each activity to be carried out with the guaranteed loan funds meets one of the national objective criteria in Section 570.208 which is described below.

CDBG National Objective and Program Benefit

The public improvements in each of the five Conservation Areas meet the CDBG national objective of benefitting low and moderate income persons as an area benefit activity under exception criteria for urban counties (570.208 (a) (1)(ii)). A project meets the test for low and moderate income benefit if the proposed improvements serve a residential area where the proportion of low and moderate income persons falls within the top 25% of the areas in the County in terms of the degree of concentration of persons with low and moderate income. This determination is made generally by utilizing census data. Using the 1990 census data, areas meeting that definition were those with 22.3% or greater concentration of persons with low and moderate incomes and for the 2000 census, it was areas with 28.5% or greater concentration that met the area benefit test.

The original Section 108 loan application for the neighborhood improvements proposed to use loan proceeds for road and storm drainage improvements in all five Conservation Areas with some public facility improvements in one of the Areas, the James Lee Conservation Area. The five Conservation Areas included: Bailey's, Fairhaven, Gum Springs, James Lee, and Jefferson Manor (see maps in Attachment 1). The projects proposed in the original application were to allow for: (1) the completion of improvements in Fairhaven, Gum Springs, and James Lee; (2) the continuation of improvements in Bailey's; and (3) the initiation of the first phase of improvements in Jefferson Manor. These Conservation areas were located in Census Tracts that, at the time of the original application all had a concentration of low and moderate income persons greater than 22.3% and met the low/mod benefit exception criteria. Based on the 2000 census and the exception criteria of 28.5%, these same five areas all still meet the low/mod benefit requirement for this new application.

The Census Tract and Block Group numbers for those Conservation Areas have changed since the submission of the original application. The most recent Census Tract numbers for those

areas are: Bailey's 4527.1, 4527.2, 4516.4; Fairhaven 4205.3; Gum Springs 4154.3, 4155.1; 4159.1; James Lee 4503.3; Jefferson Manor 4206.1 and 4206.2.

The concentration of persons with low and moderate incomes based on 2000 Census Data and 2000 Census Tract and Block Group configurations for each Conservation Area are as follows:

<u>Conservation Area</u>	<u>Census Tracts</u>	<u>Low/Mod %</u>
Bailey's	4516.4; 4527.1; 4527.2	49.4%
Fairhaven	4205.3	33%
Gum Springs	4154.3; 4155.1; 4159.1	30.3%
James Lee	4503.3	51%
Jefferson Manor	4206.1; 4206.2	43%

No material change has occurred in the use or purpose of funding that was described in the February 12, 1996 County Application for Section 108 Funding. According to the County's review of available project records for the Bailey's, Fairhaven, Gum Springs, James Lee, and Jefferson Manor community improvements, all project expenditures for public improvements were allowable under HUD Section 108 regulations and the expenditures were in conformance with the "Use of Funds" section of the application. The Department of Housing and Community Development (DHCD) records further confirm that the project expenditures occurred within the community Conservation Areas identified in that application as meeting CDBG area benefit eligibility criteria for expenditure of Section 108 Loan funds. The area benefit criteria were met over the duration of the project. (There was one typographical error from the original application noted. The Census Tracts and Block Groups identified in the original application for the Gum Springs Conservation Area were correct, but there was a typographical error at the block group level for Census Tract 4155. The Census Tract and Block Group numbers should have read 4155.01 (versus 4155.02). This is consistent with the narrative and actual location of the work proposed in the original application as approved by HUD.

In the past, phased improvements in the Conservation Areas had been designed and constructed through a combination of CDBG funds and a neighborhood improvement bond approved in 1989. However, ongoing expenditures and fixed program costs limited the amount of CDBG funding that was actually available for continuation of neighborhood improvements. Also, it was unlikely at the time of the original application that neighborhood improvement bonds would be considered in the near term, making it difficult to complete approved projects without another identified funding source. The original Section 108 loan application proposed to use loan proceeds to fund neighborhood improvements in the five Conservation Areas for the projects identified below and the pre-award costs requested under the new application cover

improvements in the same five Conservation Areas for eligible costs incurred but not yet reimbursed. Improvements by Conservation Area are as follows:

o Bailey's Conservation Area

The Bailey's Conservation Plan was adopted on March 30, 1976. Since the adoption of the Conservation Plan many homeowners have participated in the County's low interest home improvement loan program. Public improvement projects have consisted of the construction of a community center, recreational and site improvements, and road and storm drainage improvements. Six phases of road and storm drainage improvements were planned under the original application. The fourth phase of road and storm drainage improvements was funded from the 1989 Neighborhood Improvement Bond. Section 108 loan funds were to be used to construct the fifth phase of road and storm drainage improvements which comprises Lewis Lane, Summers Lane, Cheryl Street, and Arnet Street. Construction of this phase would leave one phase remaining to be completed.

o Fairhaven Conservation Area

The Fairhaven Conservation Plan was adopted on August 2, 1979. Homeowners have participated in the home improvement loan program since the adoption of the Conservation Plan. Public improvement projects have consisted of the construction of road and storm drainage improvements. Seven phases of road and storm drainage improvements was planned. The fifth phase of road and storm drainage improvements was funded from the 1989 Neighborhood Improvement Bond. Funding was available from CDBG and County General funds for construction of a portion of Phase VI, and Section 108 loan funds under the original application were to be used for the remainder of Phase VI and to construct Phase VII which together comprises Byrd Lane, Massey Court, Bangor Drive, and Belleview Avenue. Construction of these two phases would complete the road and storm drainage improvements planned for Fairhaven.

o Gum Springs Conservation Area

The Gum Springs Conservation Plan was adopted on April 30, 1979. Homeowners have participated in the home improvement loan program since the adoption of the Conservation Plan. Public improvement projects have consisted of road and storm drainage improvements. Five phases of road and storm drainage improvements were planned. Section 108 loan funds under the original application were to be used to construct Phases III, IV and V which comprise road and storm drainage improvements on Dunbar Street, Douglas Street, Belvedere Drive, Dumas Street, Seaton Street, and Andrus Road, and incidental improvements on Derek Road and Old Holland Road. Construction of these three phases would complete the road and storm drainage improvements planned for Gum Springs.

o James Lee Conservation Area

The James Lee Conservation Area was adopted on December 8, 1980. Since the adoption of the Conservation Plan, several homeowners have participated in the home improvement loan program. Public improvement projects have consisted of the addition of a commercial kitchen at the community center, recreational and site improvements, and road and storm drainage improvements. Five phases of road and storm drainage improvements were planned. Section 108 loan funds under the original application were to be used to construct Phases IV and V which comprise road and storm drainage improvements on James Lee Street, Harriett Street, and Random Road, and incidental roadway improvements on Clearview Drive and Scipio Lane. Construction of these two phases would complete the road and storm drainage improvements planned for James Lee.

o Jefferson Manor Conservation Area

The Jefferson Manor Conservation Area was adopted on June 17, 1991. Homeowners have participated in the home improvement loan program since the adoption of the Conservation Plan. Public improvement projects consisted of road and storm drainage improvements throughout the neighborhood. Section 108 loan funds under the original application were to be used to acquire the necessary land rights, including easements and dedications, and initiate construction of the first phase which comprises road and storm drainage improvements on Farmington Drive, Farnsworth Drive, and Edgehill Drive between Jefferson Drive and Fort Drive.

Reimbursement for Pre-award Costs

County funds were used to cover the project costs of an eligible activity under the provisions of an approved Section 108 loan application. The costs described for the public improvements in the five identified Conservation Areas met CDBG program criteria with regard to eligible use of funds and low and moderate income program benefit as well as other related requirements including environmental review. The remaining cost of the neighborhood improvement projects within the identified Neighborhood Conservation Areas in the amount of \$6,535,000 were made with the expectation and understanding that the County would be reimbursed through a draw down of these funds at a later date. In this application the County is requesting the reimbursement of these costs as pre-award costs. These neighborhood public improvement expenditures were for costs that included the following: appraisals; construction; design; easement purchase; engineer design services; legal fees; and utilities construction and relocation, all of which are eligible expenses for use of Section 108 loan funds.

Under Section 570.200 (h) Reimbursement for pre-award costs, the County must address how it meets the requirements of this section which is provided under the following subsections.

(1) Prior to the effective date of the grant agreement (for a Section 108 loan guarantee, the effective date of the grant agreement is the date of HUD execution of the grant agreement amendment for the

particular loan guarantee commitment) a recipient may incur costs or may authorize a subrecipient to incur costs, and then after the effective date of the grant agreement pay for those costs using its CDBG funds provided that:

(i) The activity for which the costs are being incurred is included, prior to the costs being incurred, in a consolidated plan action plan, an amended consolidated plan action plan, or an application under subpart M of this part,

In accordance with Section 570.200(h), for reimbursement of pre-award costs, this application is for pre-award costs incurred for eligible public improvements in the five Conservation Areas described above after the previous Section 108 application was approved by HUD. Further, prior to incurring these costs these improvements were also included in the County's Consolidated Plan Action Plan. .

(ii) Citizens are advised of the extent to which these pre-award costs will affect future grants;

The County has published a county-wide notice and made available the proposed application in accordance with its citizen participation plan for the consolidated plan which advises of the extent these pre-award costs will affect future grants.

(iii) The costs and activities funded are in compliance with the requirements of this part and with the Environmental Review Procedures stated in 24 CFR Part 58;

The costs and activities were undertaken in compliance with the requirements of Environmental Review Procedures in 24 CFR Part 58.

(iv) The activity for which payment is being made complies with the statutory and regulatory provisions in effect at the time the costs are paid for with CDBG funds;

The activity for which the application covers complied with the statutory and regulatory provisions in effect at the time the costs were paid as described in earlier sections of this application including the CDBG national objective met and program beneficiaries.

The County is also making a written request under this application in accordance with Section 570.200 (h) (2) that HUD authorize payment of the total amount of pre-award costs incurred by the County in the amount of \$6,535,000 which is subject to approval by HUD. The County submits that it has demonstrated that there is good cause for granting approval as provided in the regulations for pre-award cost. The County believes it has met all the HUD requirements to be reimbursed for the amount of pre-award costs requested.

Relocation and Program Income

As stated in the original application and for this application there are no relocation activities anticipated, nevertheless, the County would comply with its Residential Antidisplacement and Relocation Assistance Plan. The proposed activity is also not expected to generate program income.

Repayment Schedule

Fairfax County proposes a loan repayment period of 20 years and requests annual payments of principal and interest estimated at an average of \$529,191. The proposed repayment schedule as estimated is outlined in the following table.

Repayment Schedule Estimated Payments

Payment Year	Estimated Interest Rate	Principal	Interest	Total Payment
1	.45%		29,407.50	29,407.50
2	.45%		29,407.50	29,407.50
3	5.00%		326,750.00	326,750.00
4	5.00%	125,000.00	326,750.00	451,750.00
5	5.00%	152,000.00	320,500.00	472,500.00
6	5.00%	180,000.00	312,900.00	492,900.00
7	5.00%	209,000.00	303,900.00	512,900.00
8	5.00%	239,000.00	293,450.00	532,450.00
9	5.00%	270,000.00	281,500.00	551,500.00
10	5.00%	302,000.00	268,000.00	570,000.00
11	5.00%	335,000.00	252,900.00	587,900.00
12	5.00%	369,000.00	236,150.00	605,150.00
13	5.00%	404,000.00	217,700.00	621,700.00
14	5.00%	440,000.00	197,500.00	637,500.00
15	5.00%	480,000.00	175,500.00	655,500.00
16	5.00%	520,000.00	151,500.00	671,500.00
17	5.00%	560,000.00	125,500.00	685,500.00
18	5.00%	605,000.00	97,500.00	702,500.00
19	5.00%	650,000.00	67,250.00	717,250.00
20	5.00%	695,000.00	34,750.00	729,750.00
Total		6,535,000.00	4,048,815.00	10,583,815.00
Average Annual Payment		326,750.00	202,440.75	529,190.75

Further information regarding these projects and this application can be obtained by contacting:

Stephen E. Knippler
Fairfax County Department of Housing and Community Development
3700 Pender Drive, Suite 300
Fairfax, Virginia 22030-6039
703-246-5170
TTY (703) 385-3578

Section 108 Loan Guarantees Entitlement Public Entity Certifications

In accordance with Section 108 of the Housing and Community Development Act of 1974, as amended, (the “Act”) and with 24 CFR 570.704(b) the public entity certifies that:

- (i) It possesses the legal authority to submit the application for assistance under 24 CFR Part 570, Subpart M (“Subpart M”) and to use the guaranteed loan funds in accordance with the requirements in Subpart M.
- (ii) Its governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the public entity to submit the application and amendments thereto and all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the public entity to act in connection with the application to provide such additional information as may be required.
- (iii) Before submission of its application to HUD, the public entity has:
 - (A) Furnished citizens with information required by 570.704(a)(2)(i);
 - (B) Held at least one public hearing to obtain the views of the citizens on community development and housing needs; and
 - (C) Prepared its application in accordance with 570.704(a) (1) (iv) and made the application available to the public.
- (iv) It is following a detailed citizen participation plan which meets the requirements described in 570.704(a) (2).
- (v) The public entity will affirmatively further fair housing , and the guaranteed loan funds will be administered in compliance with:
 - (A) Title VI of the Civil Rights Act of 1964 (Pub. L. 880352, U.S.C. 2000d et seq.); and
 - (B) The Fair Housing Act (42 U.S.C. 3601-20)
- (vi) In the aggregate, at least 70 percent of all CDBG funds, as identified a 570.3(e), to be expended during the one, two, or three consecutive years specified by the public entity for its CDBG program will be for activities which will benefit low and moderate income persons, as described in criteria at 570.208(a).
- (vii) It will comply with the requirements governing displacement, relocation, real property acquisition, and the replacement of low and moderate income housing described in 570.606.

- (viii) It will comply with the requirements of 570.200(c) (2) with regard to the use of special assessments to recover the capital costs and activities assisted with guaranteed loan funds.
- (ix) It will comply with the other provisions of the Act and with other applicable laws.

**Certification Regarding Debarment, Suspension,
And Other Responsibility Matters—
Primary Covered Transactions**

- (1) The prospective primary participant certifies to best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with the commission
 - (d) of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (e) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation of this proposal.

Certification of Efforts to Obtain Other Financing

The County of Fairfax hereby assures and certifies with respect to its application for a loan guarantee pursuant to Section 108 of the Housing and Community Development Act of 1974, as amended, that it has made efforts to obtain financing for the activities described herein without the use of such guarantee, it will maintain documentation of such efforts for the term of the loan guarantee, and it can not complete such financing consistent with the timely execution of the project without such guarantee.

Certification Regarding Drug-Free Workplace Requirements

The certification set out below is a material representation upon which reliance is placed by the U.S. Department of Housing and Urban Development in awarding the loan guarantee assistance. If it is later determined that the public entity knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the U.S. Department of Housing and Urban Development, in addition to any other remedies available to the Federal Government, may take action under the Drug-Free Workplace Act.

CERTIFICATION

The public entity certifies that it will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the public entity's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The public entity's policy of maintaining a drug-free workplace
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Marking it a requirement that each employee to be engaged in the performance of the activities undertaken with the loan guarantee assistance be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the loan guarantee, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grants;

- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is convicted;
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

Place of Performance

For Certification Regarding Drug-Free Workplace Requirements

Name of Public Entity: County of Fairfax
Program Name: Section 108 Loan Guarantee Program
Project Number: (TBD)
Date:

The public entity shall insert in the space provided below the site(s) expected to be used for the performance of work under the assistance covered by the certification:

Place of Performance (includes street address, city, county, state, zip code for each site):

Fairfax County Department of Housing and Community Development
*One University Plaza, Fairfax, Fairfax, Virginia 22030
*3700 Pender Drive, Fairfax, Fairfax, Virginia 22030

Statement Regarding Lobbying

THE UNDERSIGNED STATES, TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF, THAT:

If any funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form –LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Certification of Legal Authority to Pledge Grants

The public entity hereby certifies and assures with respect to its application for a loan guarantee pursuant to Section 108 of the Housing and Community Development Act of 1974, as amended, that it possess the legal authority to make the pledge of grants required under 24 CFR 570.705(b)(2).









